

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:	§	
Entenmann, Mathias	§	
	§	Confirmation No.: 4137
Serial No.: 09/678,295	§	
	§	Group Art Unit: 3694
Filed: October 2, 2000	§	
	§	Examiner: Tran, Hai
For: METHOD OF EFFECTING CASHLESS	§	
PAYMENTS AND A SYSTEM FOR	§	
IMPLEMENTING THE METHOD	§	

REPLY BRIEF

Mail Stop Appeal Brief - Patents
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

A Notice of Appeal was previously filed on February 26, 2008, and then an Appeal Brief was filed on June 5, 2008. The Examiner subsequently issued an Examiner's Answer on July 25, 2008. This Reply Brief is now being filed pursuant to the provisions of 37 C.F.R. §41.41.

No fees, including extension of time fees, are believed necessary for consideration of the present paper. However, if any fees, including extension of time fees, are necessary, the extension of time is hereby requested, and the Commissioner is hereby authorized to charge any fees to Haynes and Boone, LLP's Deposit Account No. 08-1394.

STATUS OF CLAIMS

Claims 1-4, 7, 9-10, 12-19 and 22-32 are pending, stand finally rejected, and are on appeal here.

Claims 1-4, 7, 9-10, 12-19 and 22-32 are set forth in the CLAIMS APPENDIX of Applicants' previously-filed Appeal Brief, and have not changed since filing of the Appeal Brief.

GROUND OF REJECTION TO BE REVIEWED ON APPEAL

- I. Claims 1-4, 7, 9-10, 12-19 and 22-32 stand rejected under 35 U.S.C. §103(a) over Partridge, III (U.S. Patent No. 5,608,778) (Partridge) in view of Jonstromer (U.S. Patent No. 6,142,369) (Jonstromer).

ARGUMENTS

The arguments that follow are supplementary to the arguments previously set forth in Applicants' Appeal Brief.

The issue for the Board's consideration is whether claims 1-4, 7, 9-10, 12-19 and 22-32 are unpatentable under 35 U.S.C. §103(a) over Partridge in view of Jonstromer. Applicants respectfully submit that Partridge in view of Jonstromer is insufficient to obviate claims 1-4, 7, 9-10, 12-19 and 22-32. More specifically, it is Applicant's belief that the Examiner cannot factually support a *prima facie* case of obviousness with respect to the rejected claims because the references, even when combined, fail to teach or suggest the claimed subject matter.

After a review of the Examiner's Answer there are still a number of elements that remain in disagreement. Applicants will address each separately:

Writing the data transmitted from the merchant station to an open transaction and then comparing a merchant station identification code transmitted from the mobile cell telephone with the open transaction to find the transaction

The Examiner's Answer states that "Figure 3 of Partridge clearly shows that the merchant ID code (see string MIN2) is transmitted from both the Merchant and the Cellular Telephone, and the transmission also includes other data for process (i.e. TP, ESN, MIN1). Therefore, the Examiner considers this element is disclosed in Partridge reference."

Applicants dispute such a characterization of Fig. 3. The disputed portion of Fig. 3 includes an arrow drawn from a Merchant to a Credit Center, along with the identifiers "TP, ESN, MIN1, MIN2". However, there is no discussion in the Detailed Description of Partridge as to what is done with MIN2. The extent of the discussion seems to be the following:

Col. 5, ll. 6-9: "...The customer presses into telephone 10 a prefix, such as "*9", the merchant's ID code, and the sum of money that should be charged to the customer's account and credited to the merchant. That forms the string MIN2..."

Col. 5, ll. 48-52: "...deficiencies are overcome with a slightly altered approach where the merchant contacts credit center...and where the merchant electronically supplies its identification code to the credit center..."

Col. 5, ll. 58-59: "The customer can enter the TP string instead of the merchant's ID code..."

Col. 6, ll. 5-14: "...In accordance with this modified protocol, the telephone's communication is as before. The difference lies in the fact that the merchant's equipment contacts the credit center, identifies itself, provides the TP string and, when appropriate,

receives the approval, or authorization, from the center. To help credit center 40 link the TP string provided by the merchant to the transmission by telephone 10, it would be advantageous for merchant's equipment 30 to include the ESN and MIN1 of the telephone 10. This protocol is presented in FIG. 3..."

As can be seen, there is simply no discussion of the transmission of MIN2 by the merchant to the credit center other than the illustration of Fig. 3. Even assuming that the MIN2 transmitted by the merchant includes the same information that was described as forming the string MIN2 using the telephone, Applicants submit that there is still no disclosure of what is done with that information, and there is definitely no teaching of writing the data transmitted from the merchant station to an open transaction and then comparing a merchant station identification code transmitted from the mobile cell telephone with the open transaction to find the transaction.

Transmitting the transaction data to the mobile cell telephone and outputting the data through the mobile cell telephone

The Examiner's Answer states that "...With respect to transmitting the transaction data to the mobile cell telephone, Partridge teaches transmitting the approval code but does not explicitly disclose the transaction data. One of ordinary skill in the art at the time of the invention would have included the transaction data in the approval code as taught by Partridge and transmits it to the mobile cell telephone for further process and as Partridge's invention is equipped to transmit data, no unpredicted result is expected..."

Applicants again point out that Partridge states "...When credit center 40 determines that telephone 10 should be granted the credit, it sends an approval code to merchant's equipment 30 and, perhaps, to the cellular telephone as well..." (col. 5, lines 28-31), "...Preprocessor 42 confirms the bona fide of the user requested credit...and determines whether to grant credit. Its decision is then communicated to equipment 30 and, optionally, to wireless telephone 10. A written confirmation of the amount charged to the customer's account can be had from a printout provided to the customer by the merchant and, if desired, the printout can be signed by the customer for a backup validation of the charge..." (col. 6, lines 51-59). The only information sent to the telephone is an approval code or a decision to grant credit. Confirmation of an amount charged is not sent to the telephone, but rather provided as a printout by the merchant. Applicants submit that the skill in the art at the time the present disclosure was filed was to provide a printout, and providing transaction data through a mobile cell telephone would not have been obvious to someone of ordinary skill in the art.

The Examiner's Answer also states that "...With respect to outputting the data through the mobile cell telephone, the Examiner notes that Jonstromer reference discloses an electronic transaction system for conducting electronic financial transactions with a mobile phone and an electronic till where the phone is equipped with a visual display unit (VDU) and keypad for displaying and entering data (see Figure 1 and description). The Examiner notes this VDU is equivalent to the outputting data of the claimed invention because a consumer can view the data he enters and receives from the VDU. It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine these two teachings to offer consumers a more convenient way for viewing and outputting data. The Examiner considers this element is disclosed in Partridge and Jonstromer references..."

Applicants dispute whether the VDU disclosed in Jonstromer renders obvious transmitting transaction data to a mobile cell telephone and outputting the data through the mobile cell telephone. The VDU of Jonstromer is discussed as follows:

Col. 4, ll. 20-21: "...a mobile telephone 4, has a keypad 5, and a VDU (visual display unit) 6..."

Col. 4, ll. 65-67: "...Both the electronic till and the mobile phone are equipped with VDUs and these enable progress of the transaction to be monitored by both payee and payer..."

Col. 6, ll. 23-25: "...In response to a menu driven series of options and questions generated by the smart card and displayed on the mobile phones VDU 6..."

Col. 6, ll. 36-47: "...This signal is then transmitted to an electronic banking terminal 3, at the owners bank. The electronic banking terminal authenticates the owner's electronic signature, transfers the amount of money indicated in the signal to the payee's account, and transmits a signal to the payee's till indicating the amount transferred and the identity of the payer. At the payees electronic till, this information is displayed on the till's VDU, thus enabling the payee to confirm satisfactory completion of the transaction. The electronic banking terminal may also transmit a signal to the smart card 4, confirming the completion of the transaction. This signal may be stored in the form of an electronic receipt on the payer's smart card electronic wallet..."

The disclosure above is directed to VDU's on a payer's mobile phone and a payee's electronic till. The VDU's are described as enabling the progress of the transaction to be monitored and displaying a menu driven series of options and questions generated by the smart card. However, the only VDU that displays any kind of transaction data is the one on the payee's electronic till. At most, transaction data is sent to the smart card on the payer's mobile

phone, but there is no disclosure of displaying any transaction data on the VDU of that mobile phone. Thus, Applicants submit that the skill in the art at the time the present disclosure was filed did not includes outputting transaction data through a mobile cell telephone.

Requesting confirmation information through the mobile cell telephone and transmitting the confirmation data

The Examiner's Answer states that "...With respect to requesting confirmation information through the mobile cell telephone, the Examiner would like to point the Appellant to column 4, lines 8-10 and Figure 2 of Partridge where it says clearly the cellular telephone requests confirmation by sending the AUTHR string together with the RAND, ESN, and MIN1 strings for confirmation..."

Applicants submit that the section cited should be considered in context by reviewing col. 3, ll. 61-67 to col. 4, ll. 1-32 of Partridge. For example, "...In operation, each cell in a cellular communication network is serviced by a base station...The base station broadcasts a random sequence (RAND)...When a cellular telephone that is located in a cell is turned on, it receives the RAND sequence and responds...This is the registration process...The cellular telephone concatenates its ESN and MIN1 strings with the SSDA and the RAND strings, and hashes the resulting string to obtain the AUTHR string. It then transmits the AUTHR string together with the RAND, ESN, and MIN1 strings to the base station for confirmation...The base station detects the ESN and MIN1 strings and determines therefrom the asserted identity of the cellular telephone..."

Applicants submit that the confirmation cited is directed to registering the cellular telephone with a base station. The confirmation claimed in the present disclosure, when read in view of the specification, is directed to confirming the transaction. For example, page 10, ll. 28-35 to page 11, line 1 of the present disclosure read: "...After a request for and entry of confirmation information through the keyboard of the mobile cell phone 2, the confirmation data are transmitted to the comparing device 3, which in turn transmits the confirmation information to the merchant station, where it is output. A check is made in the control device 13 of the comparing device 3 as to whether the confirmation data correspond to a refusal or not. In the first case the transaction is terminated, in the second case the transaction data are read out of the transaction data memory 10, the identification codes of the merchant station and of the mobile cell phone are converted into account numbers on the basis of the data in the merchant and transaction data memories and the transaction data now with account number is passed to an account keeping device 15..." The only confirmation data related to confirming the

transaction in Partridge seems to be the approval code or decision to grant credit that is sent to the telephone by the credit center (col. 6, lines 51-59). Thus, Applicants submit that there is no disclosure of requesting confirmation information through the mobile cell telephone and transmitting the confirmation data, when confirmation information/data is read in light of the specification and interpreted as confirming the transaction.

Terminating the transaction if the confirmation information is not given within a predetermined time

The Examiner's Answer states that "...Partridge teaches that the transaction terminates successfully when the request is authorized (see column 2, lines 1-3). The Examiner interprets this as that the transaction would be terminated as well if the request is not authorized..."

Col. 2, lines 1-3 of Partridge read: "...When the request for credit is deemed proper, a message is sent to the merchant, authorizing the extension of credit, and the transaction terminates successfully..." Even if one accepts that this statement implies that the transaction would be terminated if the request for credit were deemed not proper, the Applicants submit that it does not disclose or render obvious terminating the transaction if confirmation information is not given within a predetermined time, particularly when "confirmation information" is read in view of the specification (discussed above) as confirmation sent from the cellular phone confirming the transaction.

CONCLUSION

For all of the foregoing reasons, it is respectfully submitted that claims 1-4, 7, 9, 10, 12-19, and 22-32 be allowed. A prompt notice to that effect is respectfully requested.

Respectfully submitted,

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CERTIFICATE OF TRANSMISSION

I hereby certify that this correspondence is being transmitted to the United States Patent and Trademark Office, via EFS-Web, on the date indicated below:

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Date

August 18, 2008

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